

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JASON VALE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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NOT FOR PUBLICATION

MEMORANDUM & ORDER
10-CV-4270 (MKB)

MARGO K. BRODIE, United States District Judge:

Before this Court are two of Plaintiff's motions. Plaintiff seeks (1) reconsideration of the Court's order denying his request to file a second amended complaint and (2) a further extension of time to file his expert disclosures. (Docket Entries Nos. 50, 52.) The Court affirms its denial of Plaintiff's motion to file a second amended complaint and denies Plaintiff's application for a further extension of time to file his expert disclosures.

I. Denial of Application to File Second Amended Complaint

Plaintiff filed this action in 2010. Since that time, Plaintiff has already amended the Complaint once, and, but for Plaintiff's expert disclosures, discovery has been closed since August 2012. A district court has the discretion to deny a motion to amend the complaint for "undue delay," among other reasons. *Burch v. Pioneer Credit Recovery, Inc.*, 551 F.3d 122, 126 (2d Cir. 2008). Here, the Court has set a schedule for the filing of summary judgment papers. The Court affirms its denial of Plaintiff's motion to file a second amended complaint.

II. Extension of Time to File Expert Disclosures

Plaintiff's request for further time to file expert disclosures is denied. Plaintiff has had more than sufficient time to file his expert disclosures. Magistrate Judge Bloom originally set December 15, 2011 as the date for the parties to complete all discovery. (July 21, 2011 Order.) Plaintiff then requested four extensions of time to complete discovery. First, on December 5, 2011, Plaintiff requested an extension until March 15, 2012. (Docket Entry No. 24.) Judge Bloom granted Plaintiff's request. (December 19, 2011 Order.) On March 6, 2012, Plaintiff requested a second extension of time to complete discovery. (Docket Entry No. 30.) Judge Bloom granted a 30-day extension. (March 7, 2012 Order.) On April 5, 2012, Plaintiff made a third request seeking a 60-day extension to complete discovery. (Docket Entry No. 33.) Judge Bloom granted the request, extending the discovery deadline to June 15, 2012 for fact discovery and July 16, 2012 for Plaintiff's expert disclosures. (April 10, 2012 Order.) On June 13, 2012, Plaintiff made a fourth request for an extension of time to complete discovery. (Docket Entry No. 34.) Judge Bloom granted the request, extending the discovery deadline to August 14, 2012 for fact discovery and September 14, 2012 for Plaintiff's expert disclosures. (June 14, 2012 Order.) In granting Plaintiff's fourth request for an extension of time, Judge Bloom warned Plaintiff that the extension was "final." (*Id.*)

Since then, despite being warned that the June 2012 extension was final, Plaintiff has requested several additional extensions of the deadline to file his expert disclosures from Judge Bloom. On September 12, 2012, Plaintiff requested a 60-day extension of the deadline. (Docket Entry No. 36.) Recognizing that her June 14, 2012 Order specifying its finality may have been ambiguous, Judge Bloom granted Plaintiff's request and extended the deadline for his expert disclosures to November 14, 2012. (September 14, 2012 Order.) Judge Bloom's September 14,

2012 Order stated that “[n]o further request for an extension shall be considered.” (*Id.*) On November 14, 2012, Plaintiff nevertheless sought a 14-day extension to submit his expert disclosures because of Hurricane Sandy. (Docket Entry No. 37.) Judge Bloom granted Plaintiff’s request “in light of the unforeseeable consequences of Hurricane Sandy.” (November 15, 2012 Order.) Judge Bloom extended Plaintiff’s deadline to December 28, 2012 and again informed Plaintiff that the court would not consider any further extensions of the deadline. (*Id.*) On December 11, 2012, Plaintiff filed yet another request seeking a 60-day “final extension until January 28, 2013.” (Docket Entry No. 38.) On December 20, 2012, Judge Bloom granted Plaintiff’s request, extending the deadline to January 28, 2013. (December 20, 2012 Order.) Judge Bloom again advised Plaintiff that no further extensions would be considered. (*Id.*) On January 30, 2013, Plaintiff filed another request for an additional 60-days to file his expert disclosures. (Docket Entry No. 40.) Judge Bloom denied Plaintiff’s request. (February 19, 2013 Order.) On February 21, 2013, Plaintiff asked Judge Bloom to reconsider her denial of his extension request. (Docket Entry No. 43.) Judge Bloom denied Plaintiff’s motion for reconsideration. (February 28, 2013 Order.)

Plaintiff then appealed Judge Bloom’s denial of his reconsideration motion to this Court, seeking a 60-day extension of time to file his expert disclosures. (Docket Entry No. 48.) The Court granted Plaintiff the requested 60-day extension of time to serve expert disclosures but specifically emphasized to Plaintiff in the March 8, 2013 Order that the Court “will not grant any further extensions *for any reason*.” (March 8, 2013 Memorandum & Order (emphasis in original).) Plaintiff has been granted more than sufficient time to file his expert disclosures. His application for additional time is denied.

III. Conclusion

The Court reaffirms its denial of Plaintiff's motion to file a second amended complaint over two years after he first filed this action. The Court denies Plaintiff's application to extend his time to file expert disclosures. Plaintiff has been granted substantial additional time to file his expert disclosures, has been repeatedly warned that no further extensions of time would be granted and was specifically warned by the Court in its March 8, 2013 Order that the Court "will not grant any further extensions *for any reason.*" (emphasis in original). The parties are to comply with the summary judgment motion briefing schedule established by the Court on March 8, 2013. (February 20, 2013 Order.)

SO ORDERED:

s/MKB
MARGO K. BRODIE
United States District Judge

Dated: May 2, 2013
Brooklyn, New York